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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION**
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11 JACOBO CHAN,
12 Plaintiff,
13 v.
14 ORANGE COUNTY, et al.,
15 Defendants.

CASE NO. SA CV 23-00178-CAS (AS)

**ORDER DISMISSING COMPLAINT WITH
LEAVE TO AMEND**

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18 **I.**

19 **INTRODUCTION**
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21 On January 27, 2023, Jacobo Chan ("Plaintiff"), a California
22 state prisoner proceeding pro se, filed a civil rights complaint
23 ("Complaint") pursuant to 42 U.S.C. § 1983. (Dkt. No. 1).
24

25 The Complaint sues Orange County, Orange County Health Care
26 Agency, Orange County Sheriff's Department, and five individuals,
27 Sheriff Don Barnes, Sergeant N. Spangenberg, Deputy Lynd, Deputy
28 Maldonado, and Deputy Guillen (collectively, "Individual

1 Defendants”) for the Individual Defendants’ alleged involvement in
2 denying Plaintiff his medication and treatment. (See Complaint at
3 1, 3-5). Plaintiff asserts violations of the Fourteenth Amendment
4 Due Process Clause, Eighth Amendment, and Plaintiff’s state law
5 rights. (See Complaint at 5). All Individual Defendants are sued
6 in both their individual and official capacities. (Complaint at
7 3-4).

8
9 For the reasons discussed below, the Court DISMISSES
10 Plaintiff’s Complaint WITH LEAVE TO AMEND.¹

11 12 II.

13 STANDARD OF REVIEW

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15 Congress mandates that district courts initially screen civil
16 complaints filed by prisoners seeking redress from a governmental
17 entity or employee. 28 U.S.C. § 1915A. A court may dismiss such
18 a complaint, or any portion thereof, if the court concludes that
19 the complaint: (1) is frivolous or malicious, (2) fails to state a
20 claim upon which relief may be granted, or (3) seeks monetary
21 relief from a defendant who is immune from such relief. Id.
22 § 1915A(b); see also id. § 1915(e)(2) (“[The court] shall dismiss
23 the case at any time if the court determines that . . . the
24 action . . . (i) is frivolous or malicious; (ii) fails to state a
25 claim on which relief may be granted; or (iii) seeks monetary

26
27 ¹ Magistrate judges may dismiss a complaint with leave to
28 amend without approval from the district judge. McKeever v. Block,
932 F.2d 795, 797-98 (9th Cir. 1991).

1 relief against a defendant who is immune from such relief.");
2 accord Lopez v. Smith, 203 F.3d 1122, 1126-27 & n.7 (9th Cir. 2000)
3 (en banc). In addition, dismissal may be appropriate if a complaint
4 violates Rule 8 of the Federal Rules of Civil Procedure. McHenry
5 v. Renne, 84 F.3d 1172, 1179 (9th Cir. 1996); Nevijel v. North
6 Coast Life Ins. Co., 651 F.2d 671, 673 (9th Cir. 1981).

7
8 In considering whether to dismiss a complaint, a court is
9 generally limited to the pleadings and must construe "[a]ll factual
10 allegations set forth in the complaint . . . as true and . . . in
11 the light most favorable" to the plaintiff. Lee v. City of Los
12 Angeles, 250 F.3d 668, 688 (9th Cir. 2001) (citation and internal
13 quotation marks omitted). Moreover, pro se pleadings are "to be
14 liberally construed" and "held to less stringent standards" than
15 those drafted by a lawyer. Erickson v. Pardus, 551 U.S. 89, 94
16 (2007) (citation omitted). Nevertheless, dismissal for failure to
17 state a claim can be warranted based on either the lack of a
18 cognizable legal theory or the absence of factual support for a
19 cognizable legal theory. Mendiondo v. Centinela Hosp. Med. Ctr.,
20 521 F.3d 1097, 1104 (9th Cir. 2008).

21 22 **III.**

23 **DISCUSSION**

24
25 Plaintiff claims that the Individual Defendants violated his
26 constitutional rights by denying him his medication and treatment
27 after he was transferred to the Orange County Central Men's Jail.
28 (Complaint at 5, 7-10). The Court has reviewed the Complaint under

1 the aforementioned standards and has concluded the Complaint is
2 deficient and must be dismissed with leave to amend.

3
4 **A. Plaintiff Fails to State Claims Against Orange County, Orange**
5 **County Health Care Agency, and Orange County Sheriff's**
6 **Department**

7
8 Plaintiff seeks damages from Orange County, Orange County
9 Health Care Agency, and Orange County Sheriff's Department for the
10 actions and/or inactions of the Individual Defendants. A local
11 government entity "cannot be held liable solely because it employs
12 a tortfeasor - or, in other words, a municipality cannot be held
13 liable under § 1983 on a respondeat superior theory." Monell v.
14 Dep't of Soc. Servs. of City of New York, 436 U.S. 658, 691 (1978).
15 Instead, a municipality, such as Orange County, or the departments
16 and agencies within these entities, is liable under § 1983 only
17 for constitutional violations occurring as the result of an
18 official government policy or custom. Collins v. City of Harker
19 Heights, Tex., 503 U.S. 115, 121 (1992). To prove municipal
20 liability under § 1983, Plaintiff must show both a deprivation of
21 a constitutional right and a departmental policy, custom, or
22 practice that was the "moving force" behind the constitutional
23 violation. Villegas v. Gilroy Garlic Festival Ass'n, 541 F.3d 950,
24 957 (9th Cir. 2008). There must be a "direct causal link between
25 a municipal policy or custom and the alleged constitutional
26 deprivation." Collins, 503 U.S. at 123 (citation omitted).
27 "[P]roof of a single incident of unconstitutional activity," or
28 even a series of "isolated or sporadic incidents," will not give

1 rise to liability under § 1983. Gant v. Cnty. of Los Angeles, 772
2 F.3d 608, 618 (9th Cir. 2014) (citation omitted). Rather,
3 liability must be “founded upon practices of sufficient duration,
4 frequency and consistency that the conduct has become a traditional
5 method of carrying out policy.” Trevino v. Gates, 99 F.3d 911,
6 918 (9th Cir. 1996).

7
8 Here, Plaintiff fails to allege a constitutional violation
9 pursuant to any policy, custom, or practice of Orange County,
10 Orange County Health Care Agency, or Orange County Sheriff’s
11 Department. Therefore, Plaintiffs’ allegations are insufficient
12 to establish municipal liability, and any claims against Orange
13 County, Orange County Health Care Agency, and Orange County
14 Sheriff’s Department are dismissed with leave to amend.

15
16 **B. Plaintiff Fails to State a Claim Against Defendants Lynd,**
17 **Maldonado, Guillen, or Barnes**

18
19 Plaintiff fails to state a claim against Defendants Lynd,
20 Maldonado, Guillen, or Barnes in their individual capacities.
21 “[A] public official is liable under § 1983 only if he causes the
22 plaintiff to be subjected to a deprivation of his constitutional
23 rights.” Baker v. McCollan, 443 U.S. 137, 142 (1979) (citation
24 and internal quotation marks omitted) (emphasis in original);
25 Harper v. City of Los Angeles, 533 F.3d 1010, 1026 (9th Cir. 2008).
26 “To meet this causation requirement, the plaintiff must establish
27 both causation-in-fact and proximate causation.” Id.; see also
28 Arnold v. Int’l Bus. Machs. Corp., 637 F.2d 1350, 1355 (9th Cir.

1 1981). "The inquiry into causation must be individualized and
2 focus on the duties and responsibilities of each individual
3 defendant whose acts or omissions are alleged to have caused a
4 constitutional deprivation." Leer v. Murphy, 844 F.2d 628, 633
5 (9th Cir. 1988).

6
7 Here, with the exception of Defendant Spangenberg, Plaintiff
8 has not alleged facts demonstrating Defendants were "the actual
9 and proximate cause of any constitutional violation." Leer, 844
10 F.2d at 634. That is, Plaintiff has not explained how Defendants
11 Lynd, Maldonado, or Guillen violated his constitutional rights.
12 Rather, Plaintiff merely states that Defendants Lynd, Maldonado,
13 and Guillen were present when Defendant Spangenberg said that he
14 would not process Plaintiff's grievance regarding his medication,
15 and Defendant Lynd indicated that the Orange County Jail would not
16 necessarily continue Plaintiff's medication and treatment.
17 (Complaint at 8-9). In any amended complaint, Plaintiff should
18 name as Defendants only those individuals he believes were the
19 cause of his injuries.

20
21 To the extent Plaintiff alleges claims against Defendant
22 Barnes based on his status as a supervisor, they also fail as a
23 matter of law. Liability under § 1983 cannot be predicated on a
24 theory of respondeat superior, or vicarious liability, which makes
25 a supervisor liable for the wrongful acts of his or her
26 subordinates. See Taylor v. List, 880 F.2d 1040, 1045 (9th Cir.
27 1989); Peralta v. Dillard, 744 F.3d 1076, 1085 (9th Cir. 2014) (en
28 banc), ("Supervisors aren't vicariously liable for constitutional

1 violations under section 1983."). To be held liable, a supervising
2 officer must personally take some action against the plaintiff or
3 "set in motion a series of acts by others . . . which he knew or
4 reasonably should have known, would cause others to inflict the
5 constitutional injury" on the plaintiff. Larez v. City of Los
6 Angeles, 946 F.2d 630, 646 (9th Cir. 1991) (citation and
7 alterations omitted). In other words, a supervisor is liable for
8 subordinates' constitutional violations only "if the supervisor
9 participated in or directed the violations, or knew of the
10 violations and failed to act to prevent them." Taylor v. List,
11 880 F.2d 1040, 1045 (9th Cir. 1989).

12
13 Again, Plaintiff fails to provide any evidence that Defendants
14 Lynd, Maldonado, Guillen, or Barnes acted personally to violate
15 his constitutional rights. Rather, Plaintiff merely alleges that
16 Defendants Lynd, Maldonado, and Guillen "carried out the actions
17 complained of, in the course and scope of [their] employment and
18 duties as. . . jail deput[ies]," and Defendant Barnes "is the chief
19 policymaker for the Orange County Sheriff's Department and is
20 responsible for the county jail's daily operations." (Complaint
21 at 3-4).

22
23 Because the Complaint includes insufficient factual
24 allegations in support of these mere legal conclusions, Plaintiff's
25 claims against Defendants Lynd, Maldonado, Guillen, and Barnes are
26 dismissed with leave to amend.

1 **C. Plaintiff Fails to State an Official-Capacity Claim**

2
3 Plaintiff names the Individual Defendants in both their
4 individual and official capacities. (Complaint at 3-4). Official
5 capacity claims are "another way of pleading an action against an
6 entity of which an officer is an agent." Hafer v. Melo, 502 U.S.
7 21, 25 (1991) (quoting Monell, 436 U.S. at 690 n. 55). Thus,
8 Plaintiff's claims against the Individual Defendants in their
9 official capacities are effectively claims against Orange County
10 and Orange County Sheriff's Department.

11
12 Because official-capacity claims are treated as suits against
13 the entity, it is redundant to name multiple defendants of the same
14 agency in their official capacity. See, e.g., Rosas v. Baca, 2012
15 WL 933609, at *2 (C.D. Cal. Mar. 20, 2012) (dismissing claims
16 against three of four individual defendants sued in their official
17 capacities as duplicative); Thomas v. Baca, 2006 WL 132078, at *1
18 (C.D. Cal Jan. 13, 2006) (dismissing claims against six of seven
19 individual defendants sued in their official capacities as
20 duplicative). Since Plaintiff names Orange County and Orange
21 County Sheriff's Department as Defendants, any claims against the
22 Individual Defendants in their official capacity are redundant and
23 subject to dismissal.

24
25 Moreover, as explained in Section III.A., supra, any claims
26 against Orange County and Orange County Sheriff's Department fail
27 because municipalities cannot be held liable under § 1983 merely
28 for the acts of its employees or subordinates, unless Plaintiff

1 alleges facts showing that the alleged conduct was caused by any
2 custom, policy, or practice of the County or its departments. See
3 Monell, 436 U.S. at 694.

4
5 **IV.**

6 **CONCLUSION**

7 For the reasons discussed above, the Court DISMISSES
8 Plaintiff's claims WITH LEAVE TO AMEND.

9
10 If Plaintiff still wishes to pursue this action, he shall file
11 a First Amended Complaint no later than 30 days from the date of
12 this Order. The First Amended Complaint must cure the pleading
13 defects discussed above and shall be complete in itself without
14 reference to prior pleadings. See L.R. 15-2 ("Every amended
15 pleading filed as a matter of right or allowed by order of the
16 Court shall be complete including exhibits. The amended pleading
17 shall not refer to the prior, superseded pleading."). This means
18 that Plaintiff must allege and plead any viable claims again.

19
20 In any amended complaint, Plaintiff should identify the nature
21 of each separate legal claim and confine his allegations to those
22 operative facts supporting each of his claims. For each separate
23 legal claim, Plaintiff should state the civil right that has been
24 violated and the supporting facts for that claim only. Pursuant
25 to Federal Rule of Civil Procedure 8(a), all that is required is a
26 "short and plain statement of the claim showing that the pleader
27 is entitled to relief." However, Plaintiff is advised that the
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1 allegations in the First Amended Complaint should be consistent
2 with the authorities discussed above. In addition, the First
3 Amended Complaint may not include new Defendants or claims not
4 reasonably related to the allegations in the previously filed
5 complaints. Plaintiff is strongly encouraged to utilize the
6 standard civil rights complaint form when filing any amended
7 complaint, a copy of which is attached.

8
9 Plaintiff is explicitly cautioned that failure to timely file
10 a First Amended Complaint, or failure to correct the deficiencies
11 described above, may result in a recommendation that this action,
12 or portions thereof, be dismissed with prejudice for failure to
13 prosecute and/or failure to comply with court orders. See Fed. R.
14 Civ. P. 41(b); Applied Underwriters, Inc. v. Lichtenegger, 913 F.3d
15 884, 891 (9th Cir. 2019) ("The failure of the plaintiff eventually
16 to respond to the court's ultimatum - either by amending the
17 complaint or by indicating to the court that it will not do so -
18 is properly met with the sanction of a Rule 41(b) dismissal.")
19 (citing Edwards v. Marin Park, Inc., 356 F.3d 1058, 1065 (9th Cir.
20 2004) (emphasis omitted)). Plaintiff is further advised that if he
21 no longer wishes to pursue this action in its entirety or with
22 respect to particular Defendants or claims, he may voluntarily
23 dismiss all or any part of this action by filing a Notice of

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1 Dismissal in accordance with Federal Rule of Civil Procedure
2 41(a)(1). A form Notice of Dismissal is attached for Plaintiff's
3 convenience.

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5 **IT IS SO ORDERED.**

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7 Dated: April 6, 2023

8 /s/
ALKA SAGAR
9 UNITED STATES MAGISTRATE JUDGE
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